RULES
OF
THE TENNESSEE REGISTRY OF ELECTION FINANCE

CHAPTER 0530—1—1
CAMPAIGN FINANCIAL DISCLOSURE RULES

TABLE OF CONTENTS

0530—1—1—.01 DEFINITIONS.

(1) *Campaign Account* - is a separate bank account which must be maintained by a candidate or political campaign committee into which all campaign contributions shall be deposited and from which all campaign monies shall be expended.

(2) *Candidate* - shall include an individual who is actively waging a write-in campaign or who has authorized others to wage a write-in campaign on his/her behalf.

(3) *Goods or Services Received on Credit* - are those that are obtained for a campaign from a person or business where credit is extended in the ordinary course of the business and the terms are substantially similar to the extension of credit to nonpolitical debtors. ‘‘Goods or services received on credit’’ do not include in-kind contributions.

(4) *Investment Accounts* - are accounts such as savings, mutual funds and certificates of deposits (CDs) into which campaign funds may be held for investment purposes.

(5) *Political Campaign Committee* - includes a multicandidate political campaign committee, single-candidate political campaign committee and single-measure political campaign committee, unless reference is made to a specific type of political campaign committee.

(6) *Single-Measure Political Campaign Committee* is a committee which is receiving or expending funds to support or oppose a proposal(s) submitted to the people of the entire state or any political subdivision for approval or rejection at an election. For purposes of these rules, an organization or committee that is receiving or expending funds to support or defeat an issue that is being considered by the General Assembly or by a city or county legislative body that is not yet a proposal submitted to the people for approval or rejection at an election is not a single measure political campaign committee.

Authority: *T.C.A. §§2—10—102(2), 2—10—102(7), 2—10—106, 2—10—107(b), 2—10—206(5) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.02 BOOKKEEPING PROCEDURES.

(1) A candidate or political campaign committee shall not commingle personal funds or any other monies with campaign account funds.

(Rule 0530—1—1—.02, continued)

(2) A campaign contribution shall be deposited into a candidate's or political campaign committee's campaign account within ten (10) business days of the candidate's or committee receipt of the contribution.

(3) All campaign funds deposited into an investment account must come from the campaign account. All funds withdrawn from an investment account must be deposited back into the campaign account.

(4) All expenditures from campaign monies shall be made from a candidate's or political campaign committee's campaign account.

(5) A candidate or political campaign committee shall maintain the following financial records:

(a) A listing of all campaign contributions received from a single source during a reporting period which total more than one hundred dollars ($100.00), including name and address of each contributor and the amount of each contribution made by a contributor.

(6) When feasible, copies of all campaign contribution checks received should be maintained by a candidate or political campaign committee.

(7) A candidate or political campaign committee shall maintain all bank statements, cancelled checks, and other accounting records and required documentation listed in item 5 for a campaign account for at least one (1) year after the date of the election to which the records refer, except in the case of such accounting records used in completing a supplemental campaign financial disclosure report, which shall be maintained at least one (1) year after the date that the report to which the records refer is filed. However, if investigative procedures or a contested case hearing have been initiated against a candidate or political campaign committee, accounting records relating to a campaign account and/or a campaign financial disclosure report must be maintained by the candidate or committee until the audit or contested case hearing has been completed.

(8) A candidate or political campaign committee shall have bank account reconciliations performed for a campaign account to ensure that the bank account balances with the financial disclosure reports filed by the candidate or committee.

Authority: *T.C.A. §§2—10—105(f), 2—10—206(5) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993.*

0530—1—1—.03 CAMPAIGN CONTRIBUTIONS.

(1) A campaign contribution is deemed to have been made by a multicandidate political campaign committee and reportable in the period in which the check or other written instrument is written to a candidate or political campaign committee. A cash campaign contribution is considered to have been made and to be reportable by a multicandidate political campaign committee in the period in which the money is delivered to a candidate or political campaign committee.

(2) A campaign contribution is considered made to and reportable by a candidate or political committee when the contribution is delivered to a candidate or political campaign committee, or any agent thereof.

(Rule 0530—1—1—.03, continued)

(3) Personal funds of a candidate or any personal loan used by a candidate for routine living expenses that he or she would have incurred without candidacy, including the costs of food and residence, are not campaign contributions.

(4) A campaign contribution that is made by a PAC by check or other similar written instrument must be provided to a candidate or candidate's political campaign committee within thirty (30) days of the date that the check or other written instrument is written.

(5) A political campaign committee making an in-kind campaign contribution must notify a candidate or political campaign committee receiving the contribution of the amount and purpose of the contribution, in writing, within five (5) business days after the in-kind contribution is made or performed.

(6) An in-kind contribution is the provision of any goods or services to a candidate or political campaign committee without charge or at a charge which is less than the fair market value for such goods or services.

(7) Where goods or services are provided to a candidate or political campaign committee at a charge which is less than the fair market value for such goods or services, the candidate or committee must report as an in-kind contribution the difference between the amount paid for the goods or services and the fair market value of such goods or services.

(8) Examples of in-kind contributions that are considered goods include, but are not limited to:

(a) campaign materials, such as campaign literature, brochures, bumper stickers, campaign advertisements;

(b) postage;

(c) equipment and other similar supplies;

(d) Reserved;

(e) polling or survey data.

(9) Examples of in-kind contributions that are considered services include, but are not limited to:

(a) providing of paid personnel for telephone banks and distribution of campaign materials;

(b) consulting services.

(10) If a multi-candidate political campaign committee making an in-kind contribution to a candidate or political campaign committee is in a dispute with a vendor over the amount of an expense, the committee shall make a reasonable determination of the value of the in-kind contribution. The method to determine that amount shall be documented by the committee, and this documentation shall be submitted with the financial disclosure report on which the in-kind contribution is reported. Procedures set forth in the rules then should be followed for notifying the candidate or political campaign committee receiving the in-kind contribution.

Authority: *T.C.A. §§2—10—102(3), 2—10—105(i), 2—10—107(a), 2—10—107(c), 2—10—107(d), 2—10—206(5) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993.*

0530—1—1—.04 EXPENDITURES FROM CAMPAIGN CONTRIBUTIONS.

(1) An expenditure made by check or other written instrument is deemed to have been made and is reportable during the reporting period in which the check or other written instrument is written. A cash expenditure shall be deemed to be made and is reportable during the reporting period in which the money is delivered to the payee.

(2) Any disbursement out of campaign funds by a candidate or political campaign committee shall be reported as an expenditure by the candidate or political campaign committee on a campaign financial disclosure statement for the proper reporting period.

(3) When providing the purpose of an expenditure or category of expenditures as required by *T.C.A. §2—10—107(a)(2)(B),* a candidate or political committee shall provide a brief description of why the disbursement(s) was made. Examples of descriptions which shall be considered sufficient include the following: advertising, printing, phone banks, postage and travel expense reimbursement. However, descriptions such as miscellaneous, campaign expenditure, other expenses, advance or credit card payment shall not be deemed sufficient.

(4) A candidate who is an officeholder and who has an unexpended balance of campaign contributions may expend those monies for expenses which are incidental to the candidate's holding public office. If a candidate/officeholder incurs expenses which would exist regardless of being an officeholder, those expenses are not considered to be incidental to holding office and are not ordinary and necessary expenses incurred in connection with the office of the officeholder for purposes of *T.C.A. §§2—10—114(a)(7)* and *2—10—115(a)(7).*

(5) Whether an expenditure of campaign funds by a candidate is made for a political purpose depends upon all the facts and circumstances surrounding the expenditure. An activity engaged in between elections by a candidate which is directly related to and supports the selection, nomination or elections of that individual to public office is considered political activity. An expense which would be incurred by an individual regardless of that person's candidacy for public office is considered an expenditure for a nonpolitical purpose under *T.C.A. §§2—10—114(b)* and *2—10—115(b)* and may not be made from the individual's campaign funds, except as set forth in *T.C.A. §§2—10—114(a)* and *2—10—115(a).*

Authority: *T.C.A. §§2—10—105(a), 2—10—105(i), 2—10—107(a), 2—10—206(5)(a), 2—10—207(1), 2—10—114, 2—10—115 and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.* ***Amendment:*** *filed December 30, 1993; effective April 30, 1994.*

0530—1—1—.05 FILING OF CAMPAIGN FINANCIAL DISCLOSURE REPORTS.

(1) Multicandidate political campaign committees shall file campaign financial disclosure statements on the dates and for the reporting periods specified below:

(a) *First quarter.* A multicandidate political campaign committee shall file a campaign financial disclosure statement for the first quarter of the calendar year not later than April 11. Such report shall cover the period from and including January 1 through March 31.

(b) *Second quarter.* A multicandidate political campaign committee shall file a campaign financial disclosure statement for the second quarter of the calendar year not later than July 11. Such report shall cover the period from and including April 1 through June 30.

(c) *Third quarter.* A multicandidate political campaign committee shall file a campaign financial disclosure statement for the third quarter of the calendar year not later then October 11. Such report shall cover the period from and including July 1 through September 30.

(Rule 0530—1—1—.05, continued)

(d) *Fourth quarter.* A multicandidate political campaign committee shall file a campaign financial disclosure statement for the fourth quarter of the calendar year not later than January 11. Such report shall cover the period from and including October 1 through December 31.

(2) When, because of the closeness in time between two (2) elections, a post-election campaign financial disclosure report would be filed by a candidate or political campaign committee after the subsequent election in which the candidate or political campaign committee is also involved, no post-election campaign financial disclosure report for the first election is required to be filed by the candidate or committee.

(3) No campaign financial disclosure statement required to be filed by the Campaign Financial Disclosure Law may be filed before the day following the ending date of the reporting period, by a candidate or political campaign committee such that there is a failure by the candidate or the political campaign committee to disclose the required campaign financial information for the full reporting period as required by law.

(4) A document delivered to the Registry office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except holidays), 8:00 a.m. through 4:30 p.m.

(5) When the filing deadline for any campaign financial disclosure statement falls on a weekend or a holiday, resulting in the closing of the Registry Office, the disclosure statement is to be filed with the Registry by the candidate or political campaign committee on the next business day.

(6) All campaign financial disclosure reports filed by a candidate for public office or single-candidate campaign committee shall be sworn to or affirmed before a notary public as being true or correct by both the candidate and the candidate's political treasurer, if the candidate appoints a treasurer other than himself/herself.

(7) All campaign financial disclosure reports required to be filed by a political campaign committee, other than a single-candidate campaign committee, shall be sworn to or affirmed before a notary public as being true and correct by the political treasurer filing the statement on behalf of the committee.

***Authority**: T.C.A. §§2—1—115, 2—10—104, 2—10—105(a), 2—10—105(c), 2—10—105(d), 2—10—105(e), 2—10—206(5) and 2—10—207(1).* ***Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.06 CAMPAIGN LOANS.

(1) A campaign loan must be disclosed by a candidate or political campaign committee during the reporting period that the loan is made. A loan is deemed to have been made when the candidate or political campaign committee obtaining the loan receives the monies from the loan.

(2) A campaign loan must continue to be disclosed by a candidate or political campaign committee on campaign financial disclosure reports until the loan is paid back in full, or a statement has been filed with the appropriate campaign financial disclosure statement by the candidate or committee stating that the loan will not be repaid and shall be considered a contribution to the campaign.

***Authority:** T.C.A. §§2—10—106, 2—10—107(b) and 2—10—207(1).* ***Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.07 CANDIDATES.

(1) An individual who is actively waging a write-in campaign or who has authorized others to wage a write-in campaign on his/her behalf is a candidate for purposes of the Campaign Financial Disclosure Law.

Authority: *T.C.A. §§2—10—102(2) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.08 SINGLE MEASURE COMMITTEES.

(1) Before a single measure political campaign committee may receive any contributions or make any expenditures to support or defeat a measure on a ballot, it must certify the name and address of its political treasurer.

(2) If the post referendum campaign financial disclosure statement filed by a single measure political campaign committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the single measure committee shall file an annual supplemental disclosure statement each year from the date of the post-referendum report until the campaign account shows no unexpended balance, continuing debts and obligations, or deficit.

Authority: *T.C.A. §§2—10—105(e), 2—10——107(b) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.09 COUNTY EXECUTIVE COMMITTEES.

(1) A political party's county executive committee acting as a political campaign committee and filing campaign financial disclosure reports does not have to disclose the receipts and expenditures used by it to perform its functions required by the state election laws, where its annual receipts and expenditures are less than $10,000 and where those receipts and expenditures are separated from and maintained in a fund separate and apart from any funds used by its as a political campaign committee. If the funds are commingled, the county executive committee must report its receipts and expenditures of all funds on its campaign financial disclosure reports.

(2) A political party's county executive committee whose annual receipts and expenditures are $10,000 or more must disclose its receipts and expenditures of all funds on its campaign financial disclosure reports.

Authority: *T.C.A. §§2—10—102(3)(F) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.10 GOODS OR SERVICES RECEIVED ON CREDIT.

(1) Goods and services received on credit which are not paid for during the reporting period for which a disclosure statement is filed must be disclosed by a candidate or political campaign committee as follows:

(a) Goods and services received on credit totaling $100 or less from each person shall be totaled and reported as a lump sum amount on a campaign financial disclosure report.

(b) Goods and services received on credit totaling more than $100 from a source shall be itemized. The full name and complete address of each person who provided such goods and services on credit shall be disclosed, along with the total amount of goods and services provided by that person and a description of the goods and services.

(Rule 0530—1—1—.10, continued)

Authority: *T.C.A. §§2—10—102(3), 2—10—106, 2—10—107, 2—10—206(5) and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.11 INFORMAL SHOW CAUSE HEARINGS.

(1) When Registry staff presents documentation to the Registry indicating that a candidate or political campaign committee has possibly violated the Campaign Financial Disclosure Law and before the Registry takes action to assess civil penalties for a violation, the Registry shall send a written notification to the candidate or committee of the allegations and the class and maximum amount of civil penalties which would be assessed for such a violation. Additionally, this notification shall inform the candidate or committee of the date, place and time of the Registry's next regularly scheduled meeting and provide the candidate or committee the opportunity to choose one (1) of the following options:

(a) The candidate, designee of a candidate, or committee shall be provided an opportunity to personally appear before the Registry at its next regularly scheduled meeting to show why civil penalties should not be assessed; or

(b) The candidate, designee of a candidate, or committee must be provided an opportunity to submit a sworn statement to the Registry which has been sworn to before a notary public, along with any pertinent attachments, to show why civil penalties should not be assessed.

(2) The opportunity provided to a candidate, the designee of a candidate, or committee to personally appear before the Registry or to submit a sworn statement for the Registry's consideration as to whether to assess civil penalties against the candidate or committee is not in lieu of any contested case hearing rights that the candidate or committee may have pursuant to *Tennessee Administrative Procedures Act, T.C.A. §4—5—301, et seq.*

(3) In order for a candidate, the designee of a candidate, or committee to take advantage of the opportunity to personally appear before the Registry at its regularly scheduled meeting, the candidate or committee must request such an appearance in writing. A candidate or committee has the right to appear with legal counsel at the Registry meeting.

(4) In order for a candidate, the designee of a candidate, or committee to take advantage of the opportunity to submit a sworn statement, along with any pertinent attachments for the Registry's determination as to whether to assess civil penalties, the statement and any attachments must be received in the Registry's office no later than one hour after the starting time of the Registry's meeting in order to have the information to be considered by the Registry.

Authority: *T.C.A. §§2—10—110 and 2—1—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993.*

0530—1—1—.12 ISSUANCE AND APPEAL OF CIVIL PENALTY ASSESSMENT ORDERS.

(1) A civil penalty order issued by the Registry assessing penalties against a candidate or political campaign committee cannot be issued unless a majority of the Registry members present have voted that such an order be issued. Once a majority of the Registry members have voted that such an order should be issued, the chairperson or executive director shall have the authority to issue the order on behalf of the Registry.

(2) (a) A civil penalty order assessing civil penalties shall be mailed by registered or certified mail to the candidate or political campaign committee to whom the order is issued, and the party to whom it is issued shall be provided thirty (30) days from the date of the issuance of the order to either appeal the Registry's order pursuant to the procedures provided for under

(Rule 0530—1—1—.11, continued)

Tennessee's Administrative Procedures Act, *T.C.A. §4—5—301, et seq.*, or to pay the assessed penalties to the Registry.

(b) If the civil penalty assessment order is returned to the Registry from the United States Postal Service as unclaimed, then the order shall be reissued and mailed by the Registry by overnight mail delivery to the candidate or political campaign committee. The candidate or committee shall then have thirty (30) days from the date of the reissuance of the order to either appeal the Registry's order pursuant to procedures provided under the Uniform Administrative Procedures Act, compiled in *T.C.A.*, Title 4, Chapter 5, Part 3, or to pay the assessed penalties to the Registry.

(3) In order for a candidate or a political campaign committee to appeal an order issued by the Registry assessing civil penalties, the candidate or political campaign committee shall file a petition with the Registry. This petition shall be considered a request for a contested case hearing pursuant to the Uniform Administrative Procedures Act, *T.C.A. §4—5—301, et seq.*

(4) If the Registry's order assessing civil penalties is not appealed within thirty (30) days of its issuance by the candidate or political campaign committee to whom it was issued, the order becomes a final order.

(5) If a candidate or political campaign committee fails to either appeal a civil penalty order issued to it by the Registry or to pay the Registry the assessed penalties and the Registry's order becomes final without the party taking any such action, upon the order becoming final, the Registry shall forward the matter to the State Attorney General and Reporter's office. The Registry shall request that the Attorney General take legal action on its behalf to collect the civil penalties from the candidate or committee against whom the action has been taken.

Authority: *T.C.A. §§2—10—110 and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993.*

0530—1—1—.13 RECONSIDERATION OF THE ISSUANCE OF CIVIL PENALTY ASSESSMENT ORDERS.

(1) If a candidate or political campaign committee against whom a civil penalty assessment order has been issued by the Registry wishes to request that the Registry reconsider the matter, the candidate or committee must follow these procedures to have the Registry consider the request:

(a) The candidate or committee must file a written request with the Registry asking that the assessment of civil penalties against the candidate or committee be reconsidered by the Registry. The written request for reconsideration must be filed with the Registry within fourteen (14) days of the date of the issuance of the Registry's order assessing civil penalties.

(b) For a written request for reconsideration to be considered by the Registry, the candidate or committee must include additional information concerning the matter that was not available for the Registry's consideration at its meeting at which the civil penalty order was issued by the Registry. If no additional information is included in the request for reconsideration, the Registry may choose not to reconsider the matter.

(c) If the candidate or political campaign committee files a written request for reconsideration of an assessment of civil penalties with the Registry and asks to make a personal appearance before the Registry at a regularly scheduled meeting and, without good cause, fails to appear at that meeting without having notified the Registry prior to the meeting, the Registry will deny the request for reconsideration.

(Rule 0530—1—1—.13, continued)

(d) While a request for reconsideration of a civil penalty order by a candidate or political campaign committee is pending before the Registry, the Registry's order assessing penalties does not become final until a determination is made by the Registry as to the request for reconsideration. Upon a vote of a majority of the Registry members to deny a candidate's or political campaign committee's request for reconsideration of any civil penalty assessment order, the Registry shall issue an order denying the request and providing the candidate or committee ten (10) days after the date of the issuance of the order to appeal the original assessment order under the *Tennessee Administrative Procedures Act* before the order becomes a final order.

Authority: *T.C.A. §§2—10—110 and 2—10—207(1).* ***Administrative History:*** *Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993.*

0530—1—1—.14 ISSUANCE OF ADVISORY OPINIONS BY THE REGISTRY.

(1) A candidate may submit to the Registry a written request for an advisory opinion as to the application of the Campaign Financial Disclosure Law. In submitting such a request, the candidate shall include a complete description of all facts relevant to the specific transaction or activity which is the subject of the opinion request.

(2) After reviewing a candidate's request for an advisory opinion and if the Registry staff determines that more information from the candidate is necessary in order for the Registry to properly respond to the request, the staff shall notify the candidate of the additional information which should be submitted to the Registry.

(3) If the Registry staff determines that an advisory opinion request contains a complete description of the proposed transaction or activity, the staff shall notify the candidate making the request that it was received by the Registry and that the matter shall be presented by the staff to the board at its next scheduled meeting for an advisory opinion to be issued.

(4) After reviewing a candidate's advisory opinion request and upon determining that the request presents essentially the same fact situation or proposed activity which was the subject of an advisory opinion previously issued by the Registry, the staff may recommend to the board at its next regularly scheduled meeting that a copy of that earlier opinion be sent to the candidate, in lieu of issuing a new opinion. If a majority of the members of the Registry present and voting at the meeting vote to adopt the staff's recommendation, a copy of the previous opinion shall be mailed to the candidate with a memorandum explaining that the analysis and conclusion(s) contained in that previous opinion are applicable to the activity being proposed by the candidate. However, if a majority of the members present and voting at the meeting determine that a new advisory opinion should be issued addressing the candidate's opinion request, the procedures outlined in paragraph 5 through 8 of this rule shall be followed in issuing the opinion, where applicable.

(5) The Registry staff shall review the question presented in the candidate's request and research the applicable provisions of the Campaign Disclosure Law. A draft of an advisory opinion shall be presented to the members of the Registry at the board's next meeting, with a recommendation from the staff. After reviewing the draft, the members of the Registry present at the meeting shall then vote as to whether to issue the opinion as drafted.

(6) If a majority of the members of the Registry present and voting at a meeting vote to issue an advisory opinion as drafted by the staff, the advisory opinion shall be issued under the signature of the chairperson. The opinion shall be provided to the candidate who requested it. Additionally, the Executive Director shall forward copies of the opinion to the office of Legislative Legal Services and to all local county election commission offices for dissemination. A copy of the opinion shall be retained on file at the Registry office for public inspection and copying.

(Rule 0530—1—1—.14, continued)

(7) If a majority of the members of the Registry present and voting at a meeting vote not to adopt an opinion as drafted, any board recommended changes shall be made in the opinion by the staff. If the changes voted by the board are minor changes, the staff shall be directed to make those specific changes, and the opinion shall be issued under the signature of the chairperson without further review by the board. The procedures for disseminating the advisory opinion as set forth in paragraph (6) shall then be followed.

(8) If a majority of the Registry members present and voting at a meeting vote changes to be made to a draft advisory opinion which require the staff to rewrite the opinion with a different result, the Executive Director shall resent another draft of the opinion to the board members at the next scheduled meeting of the Registry.

Authority: *T.C.A. §§2—10—207(1) and 2—10—207(3).* ***Administrative History:*** *Original rule filed December 30, 1993; effective April 30, 1994.*